

United States 10

Circuit Court of Appeals

For the Ninth Circuit.

In the Matter of PATTERSON-MacDONALD
SHIPBUILDING COMPANY, a Corpora-
tion, Bankrupt.

COMMONWEALTH OF AUSTRALIA, and
MARK SHELDON, as Commissioner for the
COMMONWEALTH OF AUSTRALIA,
Appellants,

vs.

A. M. MacDONALD and JOHN L. McLEAN, as
Trustee in Bankruptcy of PATTERSON-
MacDONALD SHIPBUILDING COM-
PANY, a Corporation, Bankrupt,
Appellee.

Transcript of Record.

Upon Appeal from the United States District Court for
the Western District of Washington, Northern Division.

FILED

FEB 5 - 1923

F. D. MONTGOMERY
CLERK

United States
Circuit Court of Appeals

For the Ninth Circuit.

In the Matter of PATTERSON-MacDONALD
SHIPBUILDING COMPANY, a Corpora-
tion, Bankrupt.

COMMONWEALTH OF AUSTRALIA, and
MARK SHELDON, as Commissioner for the
COMMONWEALTH OF AUSTRALIA,
Appellants,

vs.

A. M. MacDONALD and JOHN L. McLEAN, as
Trustee in Bankruptcy of PATTERSON-
MacDONALD SHIPBUILDING COM-
PANY, a Corporation, Bankrupt,
Appellee.

Transcript of Record.

Upon Appeal from the United States District Court for
the Western District of Washington, Northern Division.

INDEX TO THE PRINTED TRANSCRIPT OF RECORD.

[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italic; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italic the two words between which the omission seems to occur.]

	Page
Appellee's Praeceptum for Additional Portions of	
Record on Appeal	41
Assignment of Errors	27
Bond on Appeal.....	31
Certificate of Clerk U. S. District Court to	
Transcript of Record	43
Certificate to Statement of Evidence.....	38
Citation	44
EXHIBITS:	
Exhibit "D"—Report of Trustee in Bank-	
ruptcy Dated July 20, 1922.....	15
Names and Addresses of Counsel.....	1
Order Allowing Appeal	30
Order Extending Time to and Including Decem-	
ber 22, 1922, to File Record and Docket	
Cause	49
Order Extending Time to and Including Janu-	
ary 20, 1923, to File Record and Docket	
Cause	48
Order Extending Time to and Including Janu-	
ary 29, 1923, to File Record and Docket	
Cause	46

Index.	Page
Order for Disbursement Dated February 16, 1921	4
Order for Disbursement Dated June 1, 1921...	6
Order for Disbursement Dated October 7, 1921.	7
Order for Disbursement Dated August 23, 1922.	19
Order of Adjudication	1
Order of Reference	3
Order on Petition for Review on Allowance to A. M. MacDonald	24
Petition for Appeal	26
Petition for Review Regarding Paying Claim of A. M. MacDonald for Services.....	21
Praecipe for Record on Appeal	40
Referee's Certificate of Review.....	10
Statement of Evidence	33

Names and Addresses of Counsel.

CORWIN S. SHANK, Esq., Attorney for Appellants, 1002 Alaska Building, Seattle, Washington.

H. C. BELT, Esq., Attorney for Appellants, 1002 Alaska Building, Seattle, Washington.

GLENN J. FAIRBROOK, Esq., Attorney for Appellants, 1002 Alaska Building, Seattle, Washington.

IRA BRONSON, Esq., Attorney for Appellees, 612 Colman Building, Seattle, Washington.

J. S. ROBINSON, Esq., Attorney for Appellees, 612 Colman Building, Seattle, Washington.

H. B. JONES, Esq., Attorney for Appellees, 612 Colman Building, Seattle, Washington. [1*]

In the District Court of the United States for the Western District of Washington, Northern Division.

6361.

In the Matter of PATTERSON-MacDONALD SHIPBUILDING COMPANY, a Corporation, Bankrupt.

Order of Adjudication.

At Seattle, in said District, on the nineteenth day of March, 1920, before the Honorable Jeremiah Neterer, Judge of said Court of Bankruptcy, the

petition of Patterson-MacDonald Shipbuilding Company, a corporation, that it be adjudged a bankrupt within the true intent and meaning of the Act of Congress relating to bankruptcy, having been heard and duly considered, said Patterson-MacDonald Shipbuilding Company, a corporation, is hereby declared and adjudged bankrupt accordingly.

WITNESS the Honorable JEREMIAH NETERER, Judge of said Court, and the seal thereof at Seattle, in said District, on the nineteenth day of March, 1920.

F. M. HARSHBERGER,
Clerk.

By P. A. Page,
Deputy.

ENTER: JEREMIAH NETERER,
Judge.

[Indorsed]: Filed in the United States District Court, Western District of Washington, Northern Division. Mar. 19, 1920. F. M. Harshberger, Clerk. By P. A. Page, Deputy. [2]

In the District Court of the United States for the
Western District of Washington, Northern
Division.

6361.

In the Matter of PATTERSON-MacDONALD
SHIPBUILDING COMPANY, a Corpora-
tion, Bankrupt.

Order of Reference.

WHEREAS, the Patterson-MacDonald Shipbuilding Company, a corporation, of Seattle, in the County of King, and District aforesaid, was on the nineteenth day of March, 1920, duly adjudged a bankrupt upon a petition filed in this court by it on the nineteenth day of March, 1920, according to the provisions of the Act of Congress relating to bankruptcy,

IT WAS THEREUPON ORDERED that said matter be referred to Cicero R. Hawkins, one of the referees in bankruptcy of this Court to take such further proceedings therein as are required by said Act; and that the said Patterson-MacDonald Shipbuilding Company shall attend the aforesaid referee on the 19th day of March, 1920, at his office, 1204, L. C. Smith Building, Seattle, Washington, and thenceforth shall submit to such orders as may be made by said referee or by this Court relating to the said bankrupt.

WITNESS the Honorable JEREMIAH NETERER, Judge of the said Court, and the seal thereof at Seattle in said District, on the nineteenth day of March, 1920.

F. M. HARSHBERGER,
Clerk.

By P. A. Page,
Deputy.

ENTER: JEREMIAH NETERER,
Judge.

[Indorsed]: Filed in the United States District Court, Western District of Washington, Northern Division. Mar. 19, 1920. F. M. Harshberger, Clerk. By P. A. Page, Deputy. [3]

In the District Court of the United States for the Western District of Washington, Northern Division.

IN BANKRUPTCY—No. 6361.

In the Matter of PATTERSON-MacDONALD SHIPBUILDING COMPANY, a Corporation, Bankrupt.

Order for Disbursement.

At a meeting of the creditors of the above-named estate duly and regularly held on the 14th day of February, 1921, it was decided that Mr. H. B. Jones, one of the attorneys for the trustee, and Mr. A. M. MacDonald, former vice-president and manager of the bankrupt corporation, should proceed to Washington, D. C., for the purpose of prosecuting and presenting the bankrupt's claim against the United States Shipping Board Emergency Fleet Corporation, and it appearing from the trustee's report that the necessary expenses of Mr. MacDonald will be the sum of \$1,000.00, and that the necessary expenses of Mr. Jones will be the sum of \$500.00;

IT IS ORDERED that the trustee pay by his check to be countersigned by the referee, to Bronson, Robinson & Jones, his attorneys, the sum of \$500.00 to cover the expenses of H. B. Jones' trip

to Washington, and that your trustee pay by his check to be countersigned by the referee, to Mr. A. M. MacDonald, the former vice-president and manager of the bankrupt corporation, the sum of \$1,000.00 on account of expenses and compensation for such trip; and it is further ordered that the said Bronson, Robinson & Jones, shall in due course, upon the completion of said trip of H. B. Jones, enter an accounting therefor.

Dated Feb. 16, 1921.

C. R. HAWKINS,
Referee.

Approved:

JEREMIAH NETERER,
Judge.

[Indorsed]: Filed in the United States District Court, Western District of Washington, Northern Division. Feb. 16, 1921. F. M. Harshberger, Clerk. By P. A. Page, Deputy. [4]

In the District Court of the United States for the
Western District of Washington, Northern
Division.

IN BANKRUPTCY—No. 6361.

In the Matter of PATTERSON-MacDONALD
SHIPBUILDING COMPANY, a Corpora-
tion,

Bankrupt.

Order for Disbursement.

At a meeting of creditors duly and regularly called for the purpose of considering, allowing and authorizing the payment of expenses of administration herein, the following disbursements hereinafter enumerated having been duly approved, authorized and ordered to be paid.

IT IS HEREBY ORDERED that the trustee execute and deliver his trustee's check, to be duly countersigned by the referee, to the following persons for the following items and amounts, to wit:

J. L. McLEAN:

Upon account trustee's fees and commissions	\$2,000
---	---------

A. M. MacDONALD:

Upon account of expenses and services rendered trustee	1,000
--	-------

BRONSON, ROBINSON & JONES:

Upon account of expenses and moneys advanced to A. M. MacDonald	\$1,150
---	---------

Upon account of trustee's attorneys' fees	3,500
---	-------

4,650	\$7,650
-------	---------

Dated at Seattle in said District June 1, 1921.

C. R. HAWKINS,
Referee.

Approved:

JEREMIAH NETERER,
Judge.

[Indorsed]: Filed in the United States District Court, Western District of Washington, Northern Division. June 1, 1921. F. M. Harshberger, Clerk. By P. A. Page, Deputy. [5]

In the District Court of the United States for the Western District of Washington, Northern Division.

IN BANKRUPTCY—No. 6361.

In the Matter of PATTERSON-MacDONALD SHIPBUILDING COMPANY, a Corporation, Bankrupt.

Order for Disbursement.

At a meeting of creditors duly and regularly called for the purpose of considering, allowing and authorizing the payment of expenses of administration herein, the following disbursements hereinafter enumerated having been duly approved, authorized and ordered to be paid,

IT IS HEREBY ORDERED that the trustee execute and deliver his trustee's check, to be duly countersigned by the Referee, to the following persons for the following items and amounts, to wit:

SUNSKI BROS. & CO., hauling muffler from Patterson-Mac- Donald Shipyard to Smith's Cove Warehouse	\$ 13
--	-------

PORT OF SEATTLE:

Labor and storage of engines from June 30, 1921, to July 29, 1921	\$ 145.28
---	-----------

Storage and cranage of muffler	4.80	
Labor and materials used in building sheds for protection of machinery	43.39	193.47
MOORE & BOOTHE, services performed May 13, 1921 to September 21, 1921		1,372.90
A. M. MacDONALD:		
Advance on expenses to trip to Washington, D. C.	\$1,500	
On account for services rendered trustee and estate	1,500	3,000
[6]		
BRONSON, ROBINSON & JONES:		
Advance for expenses of Mr. Jones on trip to Washington, D. C.	\$1,500	
For various sundry charges as per bill rendered	594.67	\$2,094.67
ROBERT MUIR, preparation of engineering data in connection with various claims		100
OREGON-WASHINGTON RAILROAD & NAVIGATION COMPANY:		
Rental on tracks from June 1 to June 30, 1921..	\$29.61	

Rental on tracks from		
July 1 to July 31, 1921	30.60	
Rental on connection and		
extension of spur from		
June 1 to June 30, 1921	6.47	
Rental on connection and		
extension of spur from		
July 1 to July 31,		,
1921	6.69	73.37

N. W. BOLSTER & CO., re-	
porting and transcribing	159

\$7,006.41.

Dated in Seattle in said District October 7th,
1921.

C. R. HAWKINS,
Referee.

Approved:

EDWARD E. CUSHMAN,
Judge.

[Indorsed]: Filed in the United States District
Court, Western District of Washington, Northern
Division, Oct. 7, 1921. F. M. Harshberger, Clerk.
By P. A. Page, Deputy. [7]

In the District Court of the United States for the Western District of Washington, Northern Division.

IN BANKRUPTCY—No. 6361.

In the Matter of PATTERSON-MacDONALD SHIPBUILDING COMPANY, a Corporation, Bankrupt.

Referee's Certificate of Review.

I, C. R. Hawkins, one of the referees of this court in bankruptcy, do hereby certify that during the course of the administration of said matters before me an order was made allowing A. M. MacDonald the sum of \$20,000.00 in full for his services rendered and expenses incurred in behalf of the trustee in the liquidation of the claim of the bankrupt against the United States Shipping Board Emergency Fleet Corporation, and for his services rendered the trustee in connection with the liquidation of the unliquidated claim asserted against said estate by the Australian Government in the sum of \$1,100,000.00, and for other services rendered in connection with the administration of said estate.

The said MacDonald having previously been paid the sum of \$6,500.00 on account of said services and expenses, the trustees was by said order directed to pay said MacDonald the sum of \$13,500.00 being the balance of said allowance.

The Australian Government, represented by its attorneys Messrs. Shark, Belt & Fairbrook, feeling

aggrieved at said order filed its petition for review thereof, which was granted.

The six alleged errors of the referee in making the ruling and order complained of, which are set out in paragraph V of the petition for review, present, I think, only two questions for review: [8]

1. Can an officer of a bankrupt corporation be reimbursed for expenses incurred and services rendered to the trustee of the bankrupt estate at the request of the trustee and creditors or must such services as was rendered by Mr. MacDonald in this case be and remain uncompensated and the expenses incurred in rendering that service be paid from his personal funds?

2. Was the allowance made to said MacDonald in the order complained of excessive?

The facts pertinent to a consideration of the questions herein presented are briefly as follows:

That at the request of the trustee and with the knowledge and consent of the creditors, Mr. A. M. MacDonald left his home in the City of Seattle, journeyed with Mr. H. B. Jones, one of the attorneys for the trustee, to Washington, D. C., for the purpose of presenting and prosecuting the claim of the bankrupt corporation against the United States Shipping Board Emergency Fleet Corporation; that in the prosecution of that undertaking Mr. MacDonald made two trips from Seattle to Washington, D. C., and spent the greater portion of the year in the prosecution of said claim against the Emergency Fleet Corporation; that as a result of the efforts of the attorneys for the trustee and

said MacDonald, the trustee received in settlement the sum of \$277,000.00 in cash and other considerations amounting to approximately \$50,000.00.

It was at all times during the prosecution of said claim represented to the referee and the creditors by the trustee and his counsel that the services of Mr. MacDonald were absolutely essential to the successful preparation and prosecution of said claim and at the creditors' meeting at which the order complained of was made, it was stated to the creditors by counsel for the trustee that a large portion of the amount realized by the [9] trustee in the settlement of said claim would have been sacrificed and lost to the creditors but for the services of Mr. MacDonald. The creditors, including the Australian Government, were at all times kept fully advised of the services being rendered by Mr. MacDonald and the apparent necessity for his presence in Washington, and from time to time consented at creditors' meetings to payments being made to him by the trustee to apply on account of his said services and expenses, and payments were authorized by the creditors and made on account thereof aggregating \$6,500.00.

Under such circumstances it was idle, in my judgment, to contend that no compensation would be paid on account of the services rendered because Mr. MacDonald was a stockholder and officer of the bankrupt corporation.

If the services of one stockholder, an officer, such as was rendered by Mr. MacDonald in this case, could be required by the trustee and the bene-

fits thereof received and retained by the creditors without compensation, there would be no reason why the trustee might not require such service or even more service from any and all stockholders and officers of the corporation without compensation.

I recognize the right of the trustee to require from the bankrupt or the officers of a bankrupt corporation such information as will enable him to properly administer the estate, but I do not understand that he can require and receive such extensive services as were rendered without fair and adequate compensation being paid therefor.

On the question of whether or not the amount allowed was excessive I do not care to say anything except that Mr. MacDonald presented a claim to the trustee for \$7,406.00 for his expenses and \$20,000.00 for his services. The trustee made [10] this letter or demand a part of his report, and notice was mailed to all the creditors advising them of the claim presented by MacDonald and that the same would be considered at the creditors' meeting and an order made disposing of the same. Prior to the creditors' meeting I had given the matter considerable thought and at said meeting sought the opinion of the various creditors and attorneys present. No objection was made by any creditors except the Australian Government to the allowance of compensation to Mr. MacDonald and no one present at said meeting, except said creditor, objected to the amount of the allowance. I was of the opinion that Mr. MacDonald's claim for expenses was unreasonable and as there had been no

showing of the items of expense I did not attempt to make any specific allowance for expenses but considered it advisable to make him an allowance for his services only which was in my judgment sufficient to take care of any legitimate expenses.

In fixing this compensation I had in mind two things,—first, the capable, intelligent effort extended by Mr. MacDonald in behalf of the estate over the long period of time in the prosecution of the claim against the Emergency Fleet Corporation and the very satisfactory results of those efforts, also the excellent and capable service and the time spent in collecting data and preparing for the litigation in connection with the liquidation of the claim of the Australian Government.

It will be observed that in the petition for review it is alleged that no sworn statement of the services rendered or expenses incurred was ever filed by MacDonald in the bankruptcy proceedings. I refer to this simply to state that that matter was not called to the attention of the referee or the creditors at the time the matter was under consideration and no point was made concerning same by counsel for the objecting [11] creditor at that time and I do not think it can be a proper subject for review unless it had been called to the attention of the referee at the time the matter was under consideration and besides as has been above stated the trustee and the creditors, including the objecting creditor, was fully advised at all times of the services required by the trustee and rendered by the said MacDonald; was advised of the payment of \$6,-

500.00 on account thereof. Mr. MacDonald as well as the trustee and his counsel were at the meeting and answered all questions concerning same that were asked by creditors or the referee.

I sent up herewith as the record in this case.

1. Exhibit "D," which was annexed to the trustee's report made prior to the meeting at which the order complained of was made.

2. The order complained of.

3. The petition for review.

Dated at Seattle, in said District, this 9th day of September, 1922.

Respectfully submitted,

C. R. HAWKINS,

Referee in Bankruptcy.

[Endorsed]: Filed in the United States District Court, Western District of Washington, Northern Division. Sep. 9, 1922. F. M. Harshberger, Clerk. By P. A. Page, Deputy. [12]

Exhibit "D."

Seattle, Washington, July 20, 1922.

Mr. J. L. McLean, Trustee in Bankruptcy,

Patterson-McDonald Shipbuilding Company,

Seattle, Washington.

Dear Sir:

Having been engaged by you and your attorneys, at the time of your appointment as Trustee in Bankruptcy, to prosecute all claims for and against the Patterson-MacDonald Shipbuilding Company, I proceeded forthwith to assemble, first, documents,

data and so forth, necessary to enable me to intelligently carry on the large undertaking of properly establishing the claims of the Shipbuilding Company against the Australian Government and the United States Shipbuilding Board Emergency Fleet Corporation.

In the fall of 1920 arbitration proceedings were started with a view of adjusting the Company's claims against the Australian Government, which proceedings lasted until February, 1921. I then left for Washington, D. C., in company with Mr. H. B. Jones (of the firm of Bronson, Robinson and Jones, your attorneys) for the purpose of presenting the Company's claims against the Emergency Fleet Corporation. A great deal of detail work was necessary, as you can readily appreciate, before the matter was gotten into presentable form, but the work was more than justified in results obtained since the claims were allowed. The decision of the "Claims Commission" was for a cash payment in favor of the Company of three Hundred Fifty-three Thousand (\$353,000.00) dollars, Salvage materials valued at Seventy thousand (\$70,000.00) dollars and commitments to be assumed by the Emergency Fleet Corporation aggregating Forty Thousand (\$40,000.00) dollars. Total Four hundred sixty-three thousand (\$463,000.00) dollars.

On my return from Washington, arbitration proceedings with the Australian Government were continued and in July, 1921, the Board of arbitors rendered their unanimous decision in favor of the Shipbuilding Company. [13]

Notice was then received from the United States Shipping Board that a new "Claims Commission" had been appointed by the New Administration, which new Commission would reconsider all claims against the Emergency Fleet Corporation that had already been adjudicated; this necessitated, of course, the reopening of the Patterson-MacDonald case, a practical duplication of the work previously done and in addition the preparation and presentation of additional supporting evidence as called for by the New Commission; this together with matters pertaining to the Company's claims against the Australian Government, consumed the time to October, 1921; I again journeyed to Washington in the interests of the Company's case against the Emergency Fleet Corporation; this time, after many strenuous and anxious sessions with the "Claims Commission" a settlement was entered, which I consider a most satisfactory one for the Shipbuilding Company, whereby the claimant received a cash payment of Two hundred *seventy thousand* two hundred fifty-three & 74/100 dollars (\$277,253.74) and in addition to such cash payment the claimant to retain for its own use and benefit all moneys received for salvaged materials the estimated value of which is seventy thousand (\$70,000.00) dollars; and further, the Emergency Fleet Corporation to assume all commitments outstanding against the cancelled contract of the United States Shipping Board, amount approximating forty thousand (\$40,000.00) dollars making a total settlement of three hundred eighty-seven thousand two hundred fifty-

three & 74/100 dollars. The securing of the adjustment hereinabove recited and attending to all matters that came up in connection with our case until payment was finally made took the writer up until June of this year.

Up to date, my expenses on two trips to Washington, the one taking three and one-half months time and the other a little over eight months, together with four trips from Washington to New York, totals Seventy-four hundred and six (\$7406.00) dollars [14] in detail as follows:

Railroad fares:

Two round trips Seattle to Washington, D. C.	\$ 700.00
Four round trips Washington, D. C., to New York	116.00

Hotel expenses:

Including meals, miscellaneous and incidental items 345 days @ \$19	6,555.00
Stenographic services	35.00
<hr/>	
Total	\$7,406.00

I have received from you through the Court to apply on my expense account payments as follows:

February, 1921	\$1000.00
April 25th, 1921	1000.00
June 1st, 1921	1500.00
October 5, 1921	3000.00
<hr/>	

Total \$6500.00

This leaves a balance unpaid, due me on expense account of nine hundred and six (\$906.00) dollars.

The work that you engaged me to perform is practically finished and I hereby make a formal request of you at this time for a payment of Twenty Thousand (\$20,000.00) Dollars, on account, for services rendered during the two years and four months last past.

Should you at any time find that you again need my services I shall be only too pleased to render all assistance possible.

Yours truly,

A. M. MacDONALD.

[Endorsed]: Filed in the United States District Court, Western District of Washington, Northern Division. Sep. 9, 1922. F. M. Harshberger, Clerk. By P. A. Page, Deputy. [15]

In the District Court of the United States for the Western District of Washington, Northern Division.

IN BANKRUPTCY—No. 6361.

In the Matter of PATTERSON-MacDONALD SHIPBUILDING COMPANY, a Corporation, Bankrupt.

Order for Disbursement.

WHEREAS, at a creditors' meeting, duly called and held on Friday, August 18th, 1922, at the hour of two o'clock P. M., at the office of the Referee in Bankruptcy, 1204 L. C. Smith Building, Seattle, Washington, the claim of A. M. MacDonald for

allowance and payment on account of expenses incurred and services rendered on behalf of the trustee in connection with the prosecution of the claim of the bankrupt against the United States Shipping Board Emergency Fleet Corporation, and litigation with the Australian Government, and investigation and settlement of claims against the bankrupt, was duly considered and passed upon, and a total allowance made to him therefor of \$20,000, covering such services and expenses, whereof he has heretofore been paid the sum of \$6,500,—

NOW, IT IS HEREBY ORDERED that the trustee be and he is hereby authorized and directed to pay to said A. M. MacDonald by his check as trustee herein, to be duly countersigned by the Referee, the sum of \$13,500.00.

Dated at Seattle, in said District, this 23 day of August, 1922.

C. R. HAWKINS,
Referee.

Approved:

_____,
Judge. [16]

In the District Court of the United States for
the Western District of Washington, Northern
Division.

IN BANKRUPTCY—No. 6361.

In the Matter of PATTERSON-MacDONALD
SHIPBUILDING COMPANY, a Corpora-
tion, Bankrupt.

**Petition for Review Regarding Paying Claim of
A. M. MacDonald for Services.**

The petition of the Commonwealth of Australia respectfully represents:

FIRST: That heretofore on July 31, 1920, this petitioner duly presented its secured claim against the said bankrupt founded upon various breaches of a contract for the building by the bankrupt of ten ships for the petitioner, which said claim is now in process of adjudication, and this petitioner is a creditor of the said bankrupt having a provable claim against the said bankrupt's estate.

SECOND: That at a meeting of the creditors of the said bankrupt held on the 18th day of August, 1922, there was presented a claim of A. M. MacDonald for expenses and services rendered in connection with administering the estate of the said bankrupt, and that the said claim was, over the objection of this petitioner, allowed as an expense of administering the said estate in the sum of \$13,500.00, and thereafter upon the 23d day of August, 1922, an order was entered by the Honorable C. R. Hawkins, referee in bankruptcy, authorizing the payment of said claim, the same also being entered over the objection of this petitioner.

THIRD: That no sworn statement of services rendered, or of expense occurred, was ever filed in the said cause by the said A. M. MacDonald, or on his behalf; and the only representation which formed the basis of the said claim was [17] contained in the petition of the trustee filed herein to the effect

that he had employed the said A. M. MacDonald to assist him in presenting a claim against the United States Shipping Board, Emergency Fleet Corporation, which said claim has been approved by the said Emergency Fleet Corporation and paid in the sum of something over \$277,000.00, and also in contesting the claim of this petitioner.

FOURTH: That it further appeared that the said A. M. MacDonald was at the time of the adjudication in bankruptcy vice-president and general manager of the said bankrupt, and that the sole services rendered by the said A. M. MacDonald consisted in furnishing the trustee of the bankrupt with all necessary information for the presentation of the said claim against the United States Shipping Board, Emergency Fleet Corporation and in contesting the claim of this petitioner.

FIFTH: This petitioner claims that the said ruling and order of the said Referee is erroneous for the following reasons:

1. There was no sworn statement, either oral or written, and no itemized statement of any kind made to form the basis of any claim herein as required by the bankruptcy act and the rules, and the practice of this court.

2. That there is no segregation in the order of the items, so it is impossible to determine how much was allowed the said A. M. MacDonald for expenses actually incurred and how much for services rendered, or how much was allowed the said A. M. MacDonald for each service rendered.

3. That the said trustee or his attorneys were never authorized either by the Referee or the creditors of the said bankrupt to agree, either expressly or impliedly, to pay the said A. M. MacDonald any sum whatsoever for services to be rendered by [18] the said A. M. MacDonald.

4. That the said A. M. MacDonald rendered no services whatsoever other than what he was expressly required to render under the Bankruptcy Act.

5. That it is contrary to the letter and spirit of the Bankruptcy Act and the rules and the practice of this court to pay an officer of the bankrupt for imparting information regarding the business matters and affairs of the bankrupt.

6. That the said allowance is excessive.

SIXTH: That this petitioner desires a review by the Judge of this court of the said order made by the said referee, and files this petition therefor, and he therefore prays that the order complained of and the question of law and fact raised before the said Referee and decided by him may be certified by the said referee to the District Judge of this court that he may review the said order heretofore made and make an order setting aside the said order of payment, and that the said sum of money and no part thereof be paid, and your petitioner ever prays.

COMMONWEALTH OF AUSTRALIA,

By SHANK, BELT & FAIRBROOK,

Its Counsel.

[Indorsed]: Filed in the United States District Court, Western District of Washington, Northern

Division. Sep. 9, 1922. F. M. Harshberger, Clerk.
By P. A. Page, Deputy. [19]

In the District Court of the United States for
the Western District of Washington, Northern
Division.

IN BANKRUPTCY—No. 6361.

In the Matter of PATTERSON-MacDONALD
SHIPBUILDING COMPANY, a Corpora-
tion, Bankrupt.

**Order on Petition for Review on Allowance to
A. M. MacDonald.**

This cause came on to be heard at this term upon the petition of Mark Sheldon, as Commissioner for the Commonwealth of Australia and the Commonwealth of Australia, to review an order made and entered by the Referee herein upon the 23d day of October, 1921, allowing and ordering payment to A. M. MacDonald of the sum of Thirteen Thousand Five Hundred Dollars (\$13,500.00), and was argued by counsel, and thereupon, upon consideration thereof, it was

ORDERED, ADJUDGED and DECREED that said petition be and it hereby is denied, and the said order be and it is hereby approved, confirmed and sustained, in every respect.

Done in open court this 26 day of October, 1922.

JEREMIAH NETERER,
Judge.

To the foregoing the Commonwealth of Australia and Mark Sheldon, as Commissioner for the Commonwealth of Australia, excepts, and their exception is allowed.

Oct. 26, 1922.

JEREMIAH NETERER,
Judge.

[Indorsed]: Filed in the United States District Court, Western District of Washington, Northern Division. Oct. 26, 1922. F. M. Harshberger, Clerk. By P. A. Page, Deputy. [20]

In the District Court of the United States for the Western District of Washington, Northern Division.

IN BANKRUPTCY—No. 6361.

In the Matter of PATTERSON-MacDONALD SHIPBUILDING COMPANY, a Corporation, Bankrupt.

COMMONWEALTH OF AUSTRALIA and MARK SHELDON, as Commissioner for the Commonwealth of Australia,

Appellants,

vs.

A. M. MacDONALD and JOHN L. McLEAN, as Trustee in Bankruptcy of PATTERSON-MacDONALD SHIPBUILDING COMPANY, a Corporation, Bankrupt.

Appellees.

Petition for Appeal.

And now come the Commonwealth of Australia and Mark Sheldon, as Commissioner for the Commonwealth of Australia, claimants in the above-mentioned proceeding, and say that on or about the 26th day of October, 1922, the said District Court entered an order herein in favor of the said appellees, A. M. MacDonald and John L. McLean, as Trustee in Bankruptcy of Patterson-MacDonald Shipbuilding Company, a corporation, Bankrupt, and against these appellants, wherein it denied the petition of these appellants to review an order made and entered herein by the referee allowing and ordering payment to the said A. M. MacDonald of the sum of \$13,500, and approving the said payment, in which order and the said proceedings had prior thereto in this cause certain errors were committed to the prejudice of these appellants [21] all of which more in detail appear from the assignment of errors which is filed with this petition.

WHEREFORE, these appellants hereby appeal from the said order to the United States Circuit Court of Appeals for the Ninth Circuit, for the reasons specified in said assignment of errors, and pray that this appeal may be allowed and that a transcript of the record and proceedings and papers upon which said order was made, duly authenticated, may be sent to the said United States Circuit Court of Appeals for the Ninth Circuit.

Dated November 3d, 1922.

SHANK, BELT & FAIRBROOK,

Attorneys for Appellants.

[Indorsed]: Filed in the United States District Court, Western District of Washington, Northern Division. Nov. 3, 1922. F. M. Harshberger, Clerk. By P. A. Page, Deputy. [22]

In the District Court of the United States for the Western District of Washington, Northern Division.

IN BANKRUPTCY—No. 6361.

In the Matter of PATTERSON-MacDONALD SHIPBUILDING COMPANY, a Corporation, Bankrupt.

COMMONWEALTH OF AUSTRALIA and
MARK SHELDON, as Commissioner for the
Commonwealth of Australia,

Appellants,

vs.

A. M. MacDONALD and JOHN L. McLEAN, as
Trustee in Bankruptcy of PATTERSON-
MacDONALD SHIPBUILDING COM-
PANY, a Corporation, Bankrupt.

Appellees.

Assignment of Errors.

And now come the Commonwealth of Australia and Mark Sheldon, as Commissioner for the Commonwealth of Australia, the claimants in the above-mentioned proceedings, and in connection with their appeal from the order entered in the above-entitled court and cause on the 26th day of October, 1922,

approving the order of the referee ordering the payment to A. M. MacDonald of the sum of \$13,500.00, assign the following errors to be relied upon in their said appeal:

First. The Court erred in overruling the motion of these claimants to require the referee's certificate herein to be made more definite.

Second. The Court erred in not sustaining the objections of these claimants to the said order of the said referee [23] on the ground that there was no segregation in the order of the items so that it was impossible to determine from the said order how much was allowed the said A. M. MacDonald for expenses actually incurred and how much for services rendered, or how much was allowed the said A. M. MacDonald for each service rendered.

Third. The Court erred in not sustaining the objections of these claimants to the said order of the said referee on the ground that the said John L. McLean, trustee in bankruptcy, nor his attorneys, were never authorized either by the referee or the creditors of the said bankrupt to agree, either expressly or impliedly, to pay the said A. M. MacDonald any sum whatever for services to be rendered by the said A. M. MacDonald.

Fourth. The Court erred in not sustaining the objections of these claimants to said order of the said referee on the ground that the said A. M. MacDonald rendered no services whatsoever other than what he was expressly required to render under the bankruptcy act.

Fifth. The Court erred in not sustaining the objections of these claimants to said order of the said referee on the ground that it is contrary to the letter and spirit of the bankruptcy act and the rules and practice of this court to pay an officer of the bankrupt for imparting information regarding the business matters and affairs of the bankrupt.

Sixth. The Court erred in not sustaining the objections of these claimants to said order of the said referee on the ground that the said allowance is excessive.

Seventh. The Court erred in approving the order of the referee ordering payment to the said A. M. MacDonald in the sum of \$13,500.00.

SHANK, BELT & FAIRBROOK,
Attorneys for Claimants.

[Indorsed]: Filed in the United States District Court, Western District of Washington, Northern Division. Nov. 3, 1922. F. M. Harshberger, Clerk. By P. A. Page, Deputy. [24]

In the District Court of the United States for the Western District of Washington, Northern Division.

IN BANKRUPTCY—No. 6361.

In the Matter of PATTERSON-MacDONALD SHIPBUILDING COMPANY, a Corporation, Bankrupt.

COMMONWEALTH OF AUSTRALIA and
MARK SHELDON, as Commissioner for
the Commonwealth of Australia,

Appellants,

vs.

A. M. MacDONALD and JOHN L. MacLEĀN,
as Trustee in Bankruptcy of PATTERSON-
MacDONALD SHIPBUILDING COM-
PANY, a Corporation, Bankrupt,

Appellees.

Order Allowing Appeal.

The Commonwealth of Australia and Mark Sheldon, as Commissioner for the Commonwealth of Australia, having presented their petition for an appeal from the order heretofore entered in the above-entitled court and cause on the 26th day of October, 1922, denying the petition of said appellants to review an order made by the referee herein allowing and ordering payment to the said A. M. MacDonald of the sum of \$13,500, and approving the said payment and an assignment of errors ac-

companying the same, and it appearing to the court that such petition should be allowed,

This Court does hereby allow the said appeal to the United States Circuit Court of Appeals for the Ninth Circuit upon the filing of a bond in the sum of \$1,000, with good and sufficient surety to be approved by the Court, said bond to be conditioned and to operate as both a cost and supersedeas bond.

Done in open court this 3d day of November, 1922.

JEREMIAH NETERER,
Judge.

[Indorsed]: Filed in the United States District Court, Western District of Washington, Northern Division, Nov. 3, 1922. F. M. Harshberger, Clerk. By P. A. Page, Deputy. [25]

Bond on Appeal.

KNOW ALL MEN BY THESE PRESENTS, that we, Commonwealth of Australia and Mark Sheldon, as Commissioner for the Commonwealth of Australia, as principals, and the National Surety Company of New York, as surety, are held and firmly bound unto A. M. MacDonald and John L. McLean, as Trustee in bankruptcy of Patterson-MacDonald Shipbuilding Company, a corporation, bankrupt, in the full and just sum of one thousand dollars (\$1,000.00), to be paid to the said A. M. MacDonald and John L. McLean, as trustee in bankruptcy of Patterson-MacDonald Shipbuilding Company, a corporation, bankrupt, for the payment

of which well and truly to be made we bind ourselves and our successors, jointly and severally by these presents.

Sealed with our seals and dated this 3d day of November in the year of our Lord one thousand nine hundred and twenty-two.

WHEREAS, lately in the District Court of the United States for the Western District of Washington, Northern Division, in an action pending in said court in bankruptcy, entitled "In the matter of Patterson-MacDonald Shipbuilding Company, a corporation, Bankrupt," an order was made and entered against the said principal obligors and in favor of the said obligees allowing and ordering payment to said A. M. MacDonald and approving said payment in the sum of \$13,500.00, and the said principal obligors have sued out an appeal therefrom.

Now, the condition of the above obligation is such that if the said Commonwealth of Australia and Mark Sheldon, as Commissioner for the Commonwealth of Australia, shall prosecute their said appeal to effect and answer all damages and costs if they fail to make their plea good, then the above obligation to be void; else to remain in full force and effect.

COMMONWEALTH OF AUSTRALIA,
And MARK SHELDON,
As Commissioner for the Commonwealth of Australia,

By SHANK, BELT & FAIRBROOK,
Their Attorneys.

[Corporate Seal]

NATIONAL SURETY COMPANY,
ROBERT WHYTE,

Attorney-in-fact. [26]

[Indorsed]: Filed in the United States District Court, Western District of Washington, Northern Division. Nov. 3, 1922. F. M. Harshberger, Clerk. By P. A. Page, Deputy. [27]

In the District Court of the United States for the Western District of Washington, Northern Division.

IN BANKRUPTCY—No. 6361.

In the Matter of PATTERSON—MacDONALD SHIPBUILDING COMPANY, a Corporation, Bankrupt.

COMMONWEALTH OF AUSTRALIA and
MARK SHELDON, as Commissioner for
the Commonwealth of Australia,

Appellants,

vs.

A. M. MacDONALD and JOHN L. MacLEAN,
as Trustee in Bankruptcy of PATTERSON—
MacDONALD SHIPBUILDING COM-
PANY, a Corporation, Bankrupt,

Appellees.

Statement of Evidence.

At a meeting of the creditors of the Patterson-MacDonald Shipbuilding Company, a corporation,

Bankrupt, held in August 18, 1922, at two o'clock P. M., before the Honorable Cicero R. Hawkins, Referee in Bankruptcy, there were present the Referee, the Trustee, Mr. N. B. Jones, Attorney for the Trustee, Mr. Corwin S. Shank, attorney for the Commonwealth of Australia and Mark Sheldon, as Commissioner for the Commonwealth of Australia, Mr. A. M. MacDonald, and other parties interested. The following proceedings were had:

“Mr. JONES.—The Trustee has also reported a letter from Mr. MacDonald. I haven't a copy, but it is in the original files—that I think I had better read. It is set up as Exhibit D to the Trustee's report.”

Thereupon Mr. Jones read said letter from Mr. MacDonald.

Mr. JONES.—“I want to say, on behalf of the Trustee, that Mr. MacDonald has performed very valuable services for the estate. When we [28] took this thing up first, the Shipping Board claim stood almost at zero, and it was necessary to have recourse to Mr. MacDonald's information and services to establish this claim, and also in connection with the arbitration, and his services have been invaluable to the estate in that regard and absolutely necessary to the proper prosecution of the claim against the Shipping Board and the resistance of the claim of the Australian Government. He has been, you might say, the encyclopedia to which we have had to refer at all times for information.

Mr. SHANK.—If the Court please, in behalf of the Commonwealth of Australia, I desire to interpose an opposition to the allowance of any sum whatsoever to Mr. MacDonald, first, because he was never employed to render any service; second, that what he has done has simply been the duty that he owed to the creditors to furnish all information which he possessed as an officer of the corporation; third, that the amount asked for is excessive.”

Upon the hearing before the Judge, answers to following questions were stipulated in open court as true:

1. Was the said A. M. MacDonald a stockholder, officer or chief managing agent of the bankrupt at or prior to the adjudication of bankruptcy of the said bankrupt? Answer: Yes.

2. Was there any sworn statement, either oral or written, made regarding the nature of the services rendered by the said A. M. MacDonald to the said bankrupt's estate? Answer: No.

3. Was there any segregation in the allowance for payment of expenses necessarily incurred and for services, and if so give such segregation?

Answer: None but letter.

4. Was there any segregation of allowances for services rendered in the matter of presenting the claim of the bankrupt's estate against [29] the United States Emergency Fleet Corporation, and in the matter of contesting the claim of the Commonwealth of Australia, and if there was any such segregation what was the allowance for each item? Answer: No segregation.

5. Is it a fact that in the event of the claim of the Commonwealth of Australia being rejected there will be a substantial sum of money left, after paying all claims of creditors, to be returned to the bankrupt corporation? Answer: Yes.

Furthermore, at the hearing before the Judge, it was ordered orally by the court that Mr. MacDonald should file an affidavit to be considered a part of the record, which affidavit, omitting formal parts, is as follows:

“A. M. MacDonald, being first duly sworn, on oath, deposes and says: that in response to the demand of Mr. Corwin S. Shank, attorney for the Commonwealth of Australia, and the instructions of the court, for submission of a sworn statement in support of his claim for compensation for services and expenses in the above matter, he does hereby refer to and adopt, and by this reference make a part of this affidavit as fully as if set forth at length herein, his letter of July 20, 1922, addressed to Mr. J. L. MacLean, trustee in bankruptcy of the above estate, and does hereby under oath state that the facts set forth in said letter are true and correct, except as hereinafter modified; and affidavit does further state in reference to this matter as follows:

I left Seattle for Washington, D. C., February 18th, 1921, getting back to Seattle May 28th, 1921. .

I again left for Washington, D. C., October 25th, 1921, getting back to Seattle July 4th, 1922, making a total of 351 days, 16 of these days being consumed on train. [30]

These trips each way cost \$214.50 per trip, which included railroad fare, Pullman, meals and tips. The four trips totaled.....\$ 858.00
Hotel and other expenses incurred on trip

as follows:

Hotel, 335 days at \$7.00 per day..... 2,345.00

Meals at \$5.50 per day..... 1,842.50

Tips \$2 per day 670.00

Other miscellaneous expenses including luncheons, dinners, laundry, automobiles, etc., at \$4.50 per day.

This makes a total of \$19.00 per

day 1,507.50

Four trips from Washington to New

York 116.00

Stenographic services 35.00

\$7,374.00

A. M. MacDONALD.''' [31]

In the District Court of the United States for the Western District of Washington, Northern Division.

IN BANKRUPTCY—No. 6361.

In the Matter of PATTERSON-MacDONALD SHIPBUILDING COMPANY, a Corporation, Bankrupt.

COMMONWEALTH OF AUSTRALIA and MARK SHELDON, as Commissioner for the Commonwealth of Australia,

Appellants,

vs.

A. M. MacDONALD and JOHN L. MacLEAN, as Trustee in Bankruptcy of PATTERSON-MacDONALD SHIPBUILDING COMPANY, a Corporation, Bankrupt,

Appellees.

Certificate to Statement of Evidence.

It appearing that the within and foregoing statement of evidence was lodged in due time with the clerk of this Court and that due and proper notice of such lodgment and of the time and place of the proposed settlement thereof was given to the attorneys for the appellees, and it appearing that the said statement is true, complete and properly prepared, it is therefore

ORDERED that the same be approved and settled and approved as a true, complete and properly prepared statement of the evidence introduced in said cause reduced to narrative form.

Dated this 22d day of January, 1923.

JEREMIAH NETERER,
District Judge.

[Indorsed]: Filed in the United States District Court, Western District of Washington, Northern Division. Jan. 22, 1923. F. M. Harshberger, Clerk. By P. A. Page, Deputy. [32]

In the District Court of the United States for the Western District of Washington, Northern Division.

IN BANKRUPTCY—No. 6361.

In the Matter of PATTERSON—MacDONALD
SHIPBUILDING COMPANY, a Corpora-
tion, Bankrupt.

COMMONWEALTH OF AUSTRALIA and
MARK SHELDON, as Commissioner for
the Commonwealth of Australia,
Appellants,

vs.

A. M. MacDONALD and JOHN L. MacLEAN,
as Trustee in Bankruptcy of PATTERSON—
MacDONALD SHIPBUILDING COM-
PANY, a Corporation, Bankrupt,
Appellees,

Praeceptum for Record on Appeal.

To F. M. Harshberger, Clerk of said court:

Will you kindly incorporate into the transcript of the record upon the appeal of the above-named appellants from the order entered in said court and cause upon the 26th day of October, 1922, allowing and ordering payment to A. M. MacDonald of the sum of \$13,500.00, the following portions of the record, to wit:

- (1) Order of adjudication of bankruptcy.
- (2) Order of reference.
- (3) Referee's certificate on review regarding compensation to A. M. MacDonald.
- (4) Order of reference making allowance to said A. M. MacDonald which was sent up accompanying the said referee's certificate.
- (5) The petition of these appellants for review of [33] said order which was also sent up accompanying the said referee's certificate.
- (6) Order of the Court entered October 26, 1922, denying these appellants' petition and approving the order of the referee.
- (7) Petition for appeal from said order.
- (8) Assignment of errors accompanying said petition.
- (9) Order allowing said appeal.
- (10) Bond on said appeal.
- (11) Citation on said appeal.
- (12) Statement of evidence upon said appeal.

Dated this 17th day of November, 1922.

SHANK, BELT & FAIRBROOK,

Attorneys for said Appellants.

Service of the within paper is hereby admitted this 17th day of Nov. 1922.

BRONSON, ROBINSON & JONES,

Attorneys for Appellees.

[Indorsed]: Filed in the United States District Court, Western District of Washington, Northern Division. Nov. 20, 1922. F. M. Harshberger, Clerk. By P. A. Page, Deputy. [34]

In the District Court of the United States for the Western District of Washington, Northern Division.

IN BANKRUPTCY—No. 6361.

In the Matter of PATTERSON-MacDONALD SHIPBUILDING COMPANY, a Corporation, Bankrupt.

THE COMMONWEALTH OF AUSTRALIA and MARK SHELDON, as Commissioner for the Commonwealth of Australia,

Appellants,

vs.

A. M. MacDONALD and JOHN L. McLEAN, as Trustee in Bankruptcy of PATTERSON-MacDONALD SHIPBUILDING COMPANY, a Corporation,

Appellees.

Appellee's Praecept for Additional Portions of Record on Appeal.

To the Clerk of the Above-entitled Court:

Will you kindly incorporate into the transcript

of the record upon appeal of the above-entitled matter the following, to wit:

- (1) Order of disbursement dated October 7th, 1921.
- (2) Order of disbursement dated June 1st, 1921.
- (3) Order of disbursement dated February 16th, 1921.

BRONSON, ROBINSON & JONES,
Attorneys for Appellees.

[Indorsed]: Filed in the United States District Court, Western District of Washington, Northern Division. Jan. 22, 1923. F. M. Harshberger, Clerk. By P. A. Page, Deputy. [35]

In the District Court of the United States for the Western District of Washington, Northern Division.

IN BANKRUPTCY—No. 6361.

In the Matter of PATTERSON-MacDONALD SHIPBUILDING COMPANY, a Corporation, Bankrupt.

THE COMMONWEALTH OF AUSTRALIA and MARK SHELDON, as Commissioner for the Commonwealth of Australia,

Appellants,

vs.

A. M. MacDONALD and JOHN L. McLEAN, as Trustee in Bankruptcy of PATTERSON-MacDONALD SHIPBUILDING COMPANY, a Corporation, Bankrupt,

Appellees.

Certificate of Clerk U. S. District Court to Transcript of Record.

United States of America,
Western District of Washington,—ss.

I, F. M. Harshberger, Clerk of the United States District Court, for the Western District of Washington, do hereby certify this typewritten transcript of record consisting of pages numbered from 1 to 35, inclusive, to be a full, true, correct and complete copy of so much of the record, papers, and other proceedings in the above and foregoing entitled cause, as is required by praecipe of counsel filed and shown herein, as the same remain of record and on file in the office of the Clerk of said District Court, and that the same constitute the record on appeal herein from the judgment of the said United States District Court for the Western District of Washington to the United States Circuit Court of Appeals for [36] the Ninth Circuit.

I further certify the following to be a full, true and correct statement of all expenses, costs, fees and charges incurred, and paid in my office by or on behalf of the petitioners and appellants herein, for making record, certificate or return to the United States Circuit Court of Appeals for the Ninth Circuit in the above-entitled cause, to wit:

Clerk's fee (Sec. 828, R. S. U. S.) for making record, certificate or return	82 folios	
at 15c		\$12.30
Certificate of Clerk to transcript of Record,		
4 folios at 15c60
Seal to said certificate20

I hereby certify that the above cost for preparing and certifying record, amounting to \$13.10, has been paid to me by attorneys for appellants.

I further certify that I hereto attach and herewith transmit the original Citation issued in this cause.

IN WITNESS WHEREOF, I have hereto set my hand and affixed the seal of said District Court, at Seattle, in said District, this 24th day of January, 1923.

[Seal] F. M. HARSHBERGER,
Clerk United States District Court, Western District of Washington. [37]

Citation.

The United States of America,—ss.

To A. M. MacDonald and to John L. McLean, as
Trustee in Bankruptcy of Patterson-MacDonald Shipbuilding Company, a Corporation,
Bankrupt:

You are hereby notified that in a certain cause in bankruptcy in the United States District Court of the United States for the Western District of Washington, Northern Division, entitled "In the Matter of Patterson-MacDonald Shipbuilding Company, a corporation, Bankrupt," an appeal has been allowed the Commonwealth of Australia and Mark Sheldon, as Commissioner for the Commonwealth of Australia, claimants therein, to the United States Circuit Court of Appeals for the Ninth Circuit, and

you are hereby cited and admonished to be and appear in said court at San Francisco on or before the 1st day of December, 1922, to show cause, if any there be, why the order appealed from should not be corrected and speedy justice done the parties in that behalf.

WITNESS the Honorable JEREMIAH NETERER, Judge of the United States District Court for the Western District of Washington, Northern Division, this 3d day of November, A. D. 1922.

JEREMIAH NETERER,
United States District Judge. [38]

[Endorsed]: In Bankruptcy—No. 6361. United States District Court for the Western District of Washington, Northern Division. In the Matter of Patterson-MacDonald Shipbuilding Company, a Corporation, Bankrupt (A. M. MacDonald). Citation. Filed in the United States District Court, Western District of Washington, Northern Division. Nov. 9, 1922. F. M. Harshberger, Clerk. By S. E. Leitch, Deputy.

Service of the within paper is hereby admitted this 3d day of November, 1922.

BRONSON, ROBINSON & JONES,
Attorneys for Appellees.

[Endorsed]: No. 3978. United States Circuit Court of Appeals for the Ninth Circuit. In the Matter of Patterson-MacDonald Shipbuilding Company, a Corporation, Bankrupt. Commonwealth of Australia and Mark Sheldon, as Commissioner for the Commonwealth of Australia, Appellants, vs.

A. M. MacDonald and John L. McLean, as Trustee in Bankruptcy of Patterson-MacDonald Shipbuilding Company, a Corporation, Bankrupt, Appellees. Transcript of Record. Upon Appeal from the United States District Court for the Western District of Washington, Northern Division.

Filed January 26, 1923.

F. D. MONCKTON,
Clerk of the United States Circuit Court of Appeals
for the Ninth Circuit.

By Paul P. O'Brien,
Deputy Clerk.

In the District Court of the United States for the
Western District of Washington, Northern Division.

IN BANKRUPTCY—No. 6361.

In the Matter of PATTERSON-MacDONALD
SHIPBUILDING COMPANY, a Corporation,
Bankrupt.

COMMONWEALTH OF AUSTRALIA et al.,
Appellants,

vs.

A. M. MacDONALD et al.,

Appellees.

**Order Extending Time to and Including January
29, 1923, to File Record and Docket Cause.**

Upon agreement of counsel for both parties in open court, and good and sufficient cause having been shown, it is hereby

ORDERED, ADJUDGED AND DECREED that the said appellants, Commonwealth of Australia and Mark Sheldon, as Commissioner for the Commonwealth of Australia, be and they hereby are allowed additional time up to and including the 29th day of January, 1923, in which to file in the United States Circuit Court of Appeals for the Ninth Circuit the record in this cause, being the appeal of the said appellants from the decree entered herein on the 26th day of October, 1922, in favor of the said appellees.

Done in open court this 23d day of January, 1923.

JEREMIAH NETERER,
District Judge.

[Endorsed]: In Bankruptcy—No. 6361. United States District Court for the Western District of Washington, Northern Division. In the Matter of Patterson-MacDonald Shipbuilding Company, Bankrupt. Order Extending Time.

In the District Court of the United States for the Western District of Washington, Northern Division.

IN BANKRUPTCY—No. 6361.

In the Matter of PATTERSON-MacDONALD
SHIPBUILDING COMPANY, a Corpora-
tion, Bankrupt.

COMMONWEALTH OF AUSTRALIA et al.,
Appellants,

vs.

A. M. MacDONALD et al.,

Appellees.

Order Extending Time to and Including January 20, 1923, to File Record and Docket Cause.

Upon agreement of counsel for both parties in open court, and good and sufficient cause having been shown, it is hereby

ORDERED, ADJUDGED AND DECREED that the said appellants, Commonwealth of Australia and Mark Sheldon, as Commissioner for the Commonwealth of Australia, be and they hereby are allowed additional time up to and including the 20th day of January, 1923, in which to file in the United States Circuit Court of Appeals for the Ninth Circuit the record in this cause, being the appeal of the said appellants from the decree entered herein on the 26th day of October, 1922, in favor of the said appellees.

Done in open court this 11th day of December, 1922.

JEREMIAH NETERER,
District Judge.

[Endorsed]: In Bankruptcy—No. 6361. United States District Court for the Western District of Washington, Northern Division. In the Matter of Patterson-MacDonald Shipbuilding Co., etc., Bankrupt. Commonwealth of Australia et al., Appellants. A. M. MacDonald et al., Appellees. Order Extending Time. Filed in the United States District Court, Western District of Washington, Northern Division. Dec. 11, 1922. F. M. Harshberger, Clerk. By P. A. Page, Deputy.

In the District Court of the United States for the
Western District of Washington, Northern Di-
vision.

IN BANKRUPTCY—No. 6361.

In the Matter of PATTERSON-MacDONALD
SHIPBUILDING COMPANY, a Corpora-
tion, Bankrupt,

COMMONWEALTH OF AUSTRALIA et al.,
Appellants,

vs.

A. M. MacDONALD et al.,

Appellees.

**Order Extending Time to and Including December
22, 1922, to File Record and Docket Cause.**

Upon agreement of counsel for both parties in
open court, and good and sufficient cause having
been shown, it is hereby

ORDERED, ADJUDGED AND DECREED that
the said appellants, Commonwealth of Australia
and Mark Sheldon, as Commissioner for the Com-
monwealth of Australia, be and they hereby are
allowed additional time up to and including the
22d day of December, 1922, in which to file in the
United States Circuit Court of Appeals for the
Ninth Circuit the record in this cause, being the
appeal of the said appellants from the decree en-
tered herein on the 26th day of October, 1922, in
favor of the said appellees.

Done in open court this 29th day of November, 1922.

JEREMIAH NETERER,
District Judge.

[Endorsed]: In Bankruptcy—No. 6361. United States District Court for the Western District of Washington, Northern Division. In the Matter of Patterson-MacDonald Shipbuilding ompany, a Corporation, Bankrupt. Order Extending Time. Filed in the United States District Court, Western District of Washington, Northern Division. Nov. 29, 1922. F. M. Harshberger, Clerk. By P. A. Page, Deputy.

No. 3978. United States Circuit Court of Appeals for the Ninth Circuit. Order Under Subdivision 1 of Rule 16 Enlarging Time to and Including Jan. 29, 1923, to File Record and Docket Cause. Filed Jan. 26, 1923. F. D. Monckton, Clerk.